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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,473	03/25/2004	Hirotsugu Hasegawa	0229-0799PUS1	6306

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BIRCH STEWART KOLASCH & BIRCH
PO BOX 747
FALLS CHURCH, VA 22040-0747

EXAMINER

STORMER, RUSSELL D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 07/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/808,473

Applicant(s)

HASEGAWA, HIROTSUGU

Examiner

Russell D. Stormer

Art Unit

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/25/04, 9/7/04</u> | 6) <input type="checkbox"/> Other: ____ |

Specification

1. The disclosure is objected to because of the following informalities: The specification must be checked for poor language and non-idiomatic English, such as the "low continuous sound like "GO" and the phrase "is caused due to" on page 1; the "vibrations causing on the wheel" on page 2; the "radius rods" on page 3; the abbreviation "inc." on page 5 (is this "incorporated" ?); and the phrase "the nuts are screwed up" on page 6.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 9-1- are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 9 the term "same pattern" lacks antecedent basis because no pattern has been defined for the mounting holes.

In each of claims 11, 12, and 13, the term "like a cap nut" is indefinite because it appears to limit the nut to be one such as a cap nut. This is effectively a range within a range limitation and it is unclear if the nut is a cap nut, looks or functions like a cap nut, or is a nut similar to a cap nut.

Claim Objections

3. Claim 15 is objected to because of the following informalities: In line 5, it appears that the first occurrence of the word "rim" should be changed to - -hub- - for the claim to make sense. The claim will be treated on the merits as if this change were made.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 3, and 4 are rejected under 35 U.S.C. 102(b) as being anticipated by Rouget De Gourcez (EPO 0559999).

As shown in figure 4, the noise reducing device 3 is bolted to the wheel. The bolt (unlabelled) is considered to be a hub bolt since the claims do not recited structure which would distinguish a hub bolt from any other bolt.

6. Claims 1, 3, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kirschner.

The plate 32 is considered to be a spacer plate, and the bolts 34, being fastened to the hub 30, are hub bolts.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 5, 6, 7, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rouget de Gourcez.

With respect to claim 2, the thickness and width of the damper and the pressure plate would have been obvious as a design choice based on the size of the wheel to be damped, the intended use of the wheel and the vehicle, the strength of the material used for the damper, etc.

With respect to claims 5, 6, and 7, those of ordinary skill in the art would have found it obvious to use other vibration dampening materials since it is well-known that rubber is not the only material which can absorb vibrations.

9. Claims 9-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brauer in view of Chase and Carmona.

Brauer discloses a noise reduction element for a wheel comprising a compression plate 28 bolted to the wheel hub and including a vibration dampening edge 36 pressed tightly against the wheel to absorb vibrations. A separate dampener is not provided, and a spacer is not shown.

Chase teaches the use of a dampening member 24, 30 for use with a compression plate 26, 32 to be bolted to a wheel. The vibration dampening member contacts the element 14 to be dampened.

Carmona teaches the use of a spacer 20, 21, 23 which can be used with a wheel assembly.

From these teachings it would have been obvious to provide the pressure plate of Brauer with a separate dampening member to further absorb vibrations, since it well-known that a resilient material will reduce vibrations, and further to provide a spacer for the assembly of Brauer. Note that the spacer set forth in claim is not attached to the assembly.

10. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chase in view of Kirschner.

Chase discloses a noise reduction member for a wheel assembly comprising a compression plate 26, and a vibration dampener 24 pressed against the brake drum 14 by the plate to reduce vibrations thereof. The vibration dampener does not contact eh wheel.

Kirschner teaches a noise reduction member for a wheel comprising a compression plate 36, 38 which presses a vibration dampener 22, 24, 26, 28 against the wheel to absorb vibrations from the wheel. The deuce may also be used on other rotating devices. See column 4, lines 10-18.

From this teaching those of ordinary skill would have recognized that a plate and dampener such as that of Chase could have been used to dampen the vibrations of other objects such as wheels, and that it would have been obvious to use such a device to dampen the vibrations of the wheel of Chase.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The references show other sound reducing devices for wheels.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Russell D. Stormer whose telephone number is (571) 272-6687. The examiner can normally be reached on Monday through Friday, 9 AM to 4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joe Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

7/1/05


RUSSELL D. STORMER
PRIMARY EXAMINER 7/1/05